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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,353	03/10/2004	Kimberly Eudenbach	EUK-101US	4280

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EXAMINER

HALE, GLORIA M

ART UNIT PAPER NUMBER

3765

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N . 10/797,353	Applicant(s) EUDENBACH ET AL.	
	Examiner Gloria Hale	Art Unit 3765	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 14, 15 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 7-13 and 16-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3-10-04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because reference numbers are not in figure 10 as stated on page 25, line 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 14, 15 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherwood (US 4,699,144) in view of Anderson (US 4,640,287).

Sherwood discloses a prosthetic brassiere (10) with at least one back strap (28) and fastening arrangement (30,32) as broadly claimed in addition to a first and second bra cup (24,26) each with a cup shell with an exterior surface at 24,26 and interior surface 18,20 that opens to define an inner volume. However, Sherwood does not specifically disclose the front coupling means. Anderson discloses a bra with a front coupling means, which is well known in bra construction (See col. 3, lines 67-68). Accordingly it would have been obvious to one having ordinary skill in the art to include a front closure means for ease in donning and doffing the bra as desired. Sherwood also includes a volume of padding (14) in the first bra cup and second bra cup wherein the pocket retains the padding/prosthetic breast. Anderson discloses the frontal hook and loop fastener and a flap (44), which covers the hook, and loop material as claimed. (See col. 3, lines 67-68 and col. 3, lines 57-66). Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bra of Sherwood to include a front fastening means with a hook and loop fastener and covering flap as disclosed by Anderson for ease in donning and doffing the bra and to hide it from view.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherwood (US 4,699,144) in view of Anderson (US 4,640,287) and further in view of Rouser et al (US 5,634,245).

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Sherwood and Anderson disclose the invention substantially as claimed.

However, Sherwood and Anderson do not specifically disclose the fastener arrangement (10) as including the first and second jaw panels (40) with a tongue (20) with complementary fastening material (hook and loop) there between. Rouser et al discloses a fastener with first and second jaw panels as seen in figure 5. Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the fasteners of Sherwood and Anderson to include the jaw/tongue fastener as disclosed by Rouser et al for ease in fastening the fastener and to provide secure attachment of the component parts. (See Rouser et al, figures 4 and 5 and col. 10, lines 1-22).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sherwood (US 4,699,144) in view of Anderson (US 4,640,287) as applied to claim 1 above, and further in view of Murray (US 3,311,112).

Sherwood and Anderson disclose the invention substantially as claimed.

However, they do not disclose placing separating fasteners at the claimed locations in order to remove the straps from the bra as desired. Murray discloses removable fastening components in order to remove the bra straps from the bra as desired including 30', 32', 46', 22' and 23'. Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the shoulder straps in a removable manner in the locations as disclosed by Murray in order to remove the straps from the bra as desired. (See Murray, figure 4 and col. 3, lines 12-37).

Claims 7-13 and 16-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the cited references alone or in combination disclose the retaining flap and aperture as in claims 7-13 and the privacy panel construction as claimed in claims 16-22.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Tuesday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gloria Hale

GLORIA M. HALE  
PRIMARY EXAMINER